

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
)
 VS.) No. 4:14-CR-246 (AGF)
)
)
 THOMAS G. ANDERSON, JR.,)
)
)
 Defendant.)
)
)

DETENTION HEARING -- VOLUME II
BEFORE THE HONORABLE SHIRLEY A. PADMORE MENSAH
AUGUST 29, 2014
ST. LOUIS, MISSOURI

FOR THE PLAINTIFF:

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Proceedings transcribed from courtroom recording.

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I N D E X

August 29, 2014; VOLUME II

Plaintiff's Witnesses:	Direct	Cross	Redirect	Recross
MITCHELL HUGHES	6	18		60
COREY NUSPL	63	67		

1 (PROCEEDINGS BEGAN AT 3:54 PM.)

2 THE COURT: Okay. This is the continuation of the
3 detention hearing in *United States versus Thomas Anderson*.
4 The case number is 4:14-C-R246-A-G-F. Will counsel please
5 announce your presence?

6 MR. DAVIS: John Davis on behalf of the
7 United States, Your Honor.

8 MR. ROSENBLUM: Scott Rosenblum on behalf of
9 Mr. Anderson, Your Honor. To my left is Marc Johnson from our
10 office.

11 THE COURT: Good afternoon. Well, we continued the
12 detention hearing to give Mr. Davis an opportunity to present
13 additional evidence to the Court.

14 Mr. Davis, please call your first witness.

15 MR. DAVIS: Mitchell Hughes, Your Honor. Co-counsel,
16 Mr. Casey, has stepped out to retrieve him from the witness
17 room.

18 THE COURT: Okay.

19 (Pause)

20 THE COURT: Would you come forward and be sworn?

21 (The Witness Is Sworn.)

22 MR. DAVIS: Your Honor, the matter we discussed
23 preliminarily at sidebar, would you like to address it now or
24 would you like to address it when we get to that point?

25 THE COURT: Let me go ahead and inquire of Mr. Hughes

1 now.

2 MR. DAVIS: May I make a preliminary --

3 THE COURT: Yes.

4 MR. DAVIS: -- explanation to Mr. Hughes?

5 THE COURT: Yes.

6 MR. DAVIS: Mr. Hughes, you and I have discussed the
7 purpose of your testimony here today and what it is you're
8 going to say. Is that correct?

9 THE WITNESS: Yes, sir.

10 MR. DAVIS: All right. The Judge is concerned that
11 part of that involves an assault, and you're aware that it
12 involves an assault that allegedly happened in California,
13 correct?

14 THE WITNESS: Yes, sir.

15 MR. DAVIS: She has some legal matters she'd like to
16 discuss with you concerning that. Okay?

17 THE COURT: Okay. Sir, could you state your full
18 name for me, please?

19 THE WITNESS: Mitchell Hughes.

20 THE COURT: No middle name?

21 THE WITNESS: Mitchell Kennedy Hughes.

22 THE COURT: Say that again.

23 THE WITNESS: Kennedy.

24 THE COURT: Kennedy, okay. Thank you. And what is
25 your date of birth, Mr. Hughes?

1 THE WITNESS: 10-16-68.

2 THE COURT: How old does that make you today?

3 THE WITNESS: 45.

4 THE COURT: All right. How far did you go in school?

5 THE WITNESS: Till the 11th grade.

6 THE COURT: All right. And I want to make sure.

7 You're here to give testimony today at the request of

8 Assistant United States Attorney John Davis. Is that correct?

9 THE WITNESS: Yes, ma'am.

10 THE COURT: All right. Did he subpoena you or issue
11 any papers on you to force you to appear today?

12 THE WITNESS: No, ma'am.

13 THE COURT: All right. I want to make sure you
14 understand that you have the right to not incriminate yourself
15 and you can refuse to testify if you feel that doing so might
16 lead to charges being brought against you by the Government.
17 Do you understand that?

18 THE WITNESS: Yes, ma'am.

19 THE COURT: All right. You also have the right to
20 consult with a lawyer regarding your testimony. Do you
21 understand that?

22 THE WITNESS: Yes, ma'am.

23 THE COURT: And if you can't afford a lawyer, you can
24 ask the Court to appoint a lawyer so that you can consult with
25 one. Do you understand that?

1 THE WITNESS: Yes, ma'am.

2 THE COURT: Is that something that you wish to do?

3 Do you have any concerns about incriminating yourself or would
4 you like to talk to a lawyer or are you asking the Court to
5 appoint a lawyer for you to consult with?

6 THE WITNESS: No, ma'am. I'm fine. Mr. Davis has
7 explained it to me.

8 THE COURT: Okay. So you're willing to waive or give
9 up your right to consult with a lawyer prior to giving this
10 testimony today?

11 THE WITNESS: Yes, ma'am.

15 THE WITNESS: Yes, ma'am. I'm fine.

16 THE COURT: Okay, very good. Please proceed,
17 Mr. Davis.

18 DIRECT EXAMINATION

19 | QUESTIONS BY MR. DAVIS:

20 Q Mr. Hughes, continuing on that topic, you are an
21 informant for the FBI. Is that true?

22 A Yes, sir.

23 Q And the agent with whom you worked the most, correct me
24 if I'm wrong, is Owen Cunningham. Is that true?

25 A Yes, sir.

1 Q The information you have provided the FBI concerns a drug
2 trafficking organization involvement -- involving
3 Tommy Anderson and others. Is that true?

4 A Yes, sir.

5 Q You've been paid for information that you have provided
6 the FBI. Is that true?

7 A Yes, sir.

8 Q Prior to being paid and providing information or in
9 conjunction with it, did Agent Cunningham explain to you
10 certain rules, such as being honest and complete?

11 A Yes, sir.

12 Q Do you understand those rules?

13 A Yes, sir.

14 Q How much have you been paid to date by the FBI?

15 A A thousand dollars.

16 Q One thousand dollars?

17 A Yes.

18 Q Okay. How do you know -- Do you know Thomas Anderson,
19 Jr.?

20 A Yes, sir, I do.

21 Q Do you see him in the courtroom today?

22 A Yes, sir, I do.

23 Q Is he sitting at defense counsel to my right?

24 A Yes, sir.

25 Q Or counsel table I mean. How did you meet

1 Thomas Anderson, Jr.?

2 A I was working in Lucas Park as a bouncer, and I was in
3 the club. We introduced each other or whatever. He was going
4 to give me some money, you know what I'm saying, to look out
5 for him, whatever. I'm not for sure if we agreed to ask him
6 or him to ask me, but he asked me about personal security. So
7 we used to go out periodically here and there. He would pay
8 me for personal security.

9 Q Did he ever introduce you to other people as his
10 bodyguard?

11 A Yes, he always did.

12 Q You heard him use the term "bodyguard"?

13 A Yes, sir.

14 Q How much would you be paid for these services?

15 A It depends. It depends on how long we be out or
16 whatever.

17 Q So if you were out for two hours, it would be a different
18 amount of money than if you were out for two days?

19 A Yes, pretty much, yeah.

20 Q Okay. Was there a set amount or was it just handled at
21 the end?

22 A No. It was just handled at the end.

23 Q You say you met while you were working as a bouncer at
24 Lucas Park. Do you mean the Lucas Park Grille that's on
25 Washington Avenue right around Tucker?

1 A Yes, sir.

2 Q Okay. Do you recall how many times you acted as
3 Mr. Anderson's bodyguard in the capacity you're talking about
4 right now?

5 A Somewhere in the range -- Somewhere in the range of 20 to
6 30 times.

7 Q Okay. Roughly, how much were you being paid?

8 A Like 150 to 200.

9 Q On -- Per time?

10 A Yes, sir.

11 Q Okay. In any of those incidents, was there a case where
12 there had to be some physical altercation involved?

13 A No, sir. The only time was when I went to California.

14 Q Okay. Prior to that time, do you recall receiving a
15 phone call from Mr. Anderson where you weren't next to him as
16 a bodyguard and he asked you to come somewhere?

17 A Yes.

18 Q Where did he ask you to come?

19 A He asked me to come down to Lucas Park one time. He said
20 they had been jumped by somebody or whatever. I was way out
21 on the Loop. I was trying to get down there, but I really
22 didn't get down there in time. When I finally got down there,
23 he gave me some money.

24 Q How much?

25 A A thousand dollars.

1 Q For doing what?

2 A For coming down there to check on him, (inaudible) I
3 guess, because I was trying to get down there to see what was
4 happening because he said he was going to be -- that he was
5 being jumped on or whatever.

6 Q When you got down there, what did you determine the
7 situation to be by the time you got there?

8 A There was no situation when I got there.

9 Q And, yet, he gave you a thousand dollars?

10 A Yeah.

11 Q You spoke a moment ago about "except for the time you
12 went to California." Can you explain to the Court, please,
13 how it -- how you ended up going to California with
14 Thomas Anderson?

15 A He called me and asked me; told me he need -- he'd take
16 me out on the West Coast to do some business for him. And I'm
17 like, "What?" He said he needed -- he needed this dude worked
18 over a little bit, and he said he didn't want him fucked up
19 too much. He just wanted to get his attention. You know what
20 I'm saying?

21 So -- He said but I might need somebody else, so I
22 went and got my partner -- my partner named "Conflict," and we
23 flew to San Jose. We got picked up by this guy in a Jeep. I
24 don't even remember his name, but he took us down to a hotel.
25 And so we later on went to Monterey Bay.

1 Q Wait, wait, wait. The gentleman that picked you up in
2 the Jeep, you don't know his name. He picked you up from the
3 San Jose Airport and took you to a hotel?

4 A Yes, sir.

5 Q And you said you were with another person who goes by the
6 name "Conflict"?

7 A Yes, sir.

8 Q Would people on the street, from talking to you, think
9 that Conflict might be your brother?

10 A Yeah.

11 Q Do you refer to him as your brother?

12 A Yes.

13 Q Is he, in fact, your real brother?

14 A No.

15 Q Okay. Did you spend the night at that hotel?

16 A Yes, sir, till the next morning.

17 Q The next morning did you see Thomas Anderson?

18 A Yes, sir.

19 Q Can you explain to the Court what happened from the next
20 morning on, please?

21 A He picked us up, told us the scoop, told us that we --
22 when we get this guy, to rough him up a little bit. You know
23 what I'm saying? And then that's going to be it; don't hurt
24 him or nothing like that; don't -- don't -- don't mess with
25 him, too much, you know.

1 Q Where did you go from that hotel?

2 A To some resort called the Monterey Bay Season Resort

3 Hotel.

4 Q Nice place?

5 A Yeah.

6 Q Did you go inside a room there?

7 A Yes, sir.

8 Q Who took you to the room?

9 A Thomas Anderson.

10 Q And can you explain from there what happened as he took

11 you into the room? Was Conflict with you?

12 A Yes, sir.

13 Q Now can you explain when the three of you went to that

14 room, what happened?

15 A Well, we talked a little bit. Then later on he called me

16 and told me that ---

17 Q I need to know who "he" is.

18 A I said later on Thomas Anderson called and asked -- and

19 told us that he was on his way. When we got there, he told

20 us, "The dude -- The dude's about to come." And when the

21 dude's about to come, ---

22 Q Let me call timeout. You're using the term "dude." At

23 this point do you know who the dude is?

24 A No.

25 Q Okay. So you got a phone call from Thomas Anderson. He

1 said, "It's about to happen." What happens from there?

2 A We like turn off the lights and wait for the dude and
3 Tom Anderson to come in. When they come in, the dude come in
4 and the lights was out. I swung and hit him, like punched him
5 through a milk shake, and I think Conflict might have punched
6 him. I don't really remember. The things were going fast.
7 And then he was like, "No, No, No! Don't kill me! Don't kill
8 me," or whatever like.

9 Q What position was that man in when he said, "Please don't
10 kill me"?

11 A He was on the floor looking up.

12 Q Is that because of at least your strike to the face?

13 A Excuse me?

14 Q Is that because you struck him in the face?

15 A Yes, sir, more than likely.

16 Q And maybe Conflict did, too? You don't recall?

17 A I don't recall.

18 Q You said through a milk shake. What do you mean by that?

19 A A malt shake.

20 Q What, he was holding one?

21 A Yes.

22 Q Oh, okay. Okay. As the gentleman is laying on the floor
23 saying, "Please don't kill me," do you recall Thomas Anderson
24 saying anything?

25 A Thomas Anderson said, "Yeah, that's what the fuck's going

1 to happen. They're going kill your fucking ass if I hear
2 about this shit again. I better not fucking hear shit about
3 this."

4 Q What tone of voice was Thomas Anderson using?

5 A I would call it abrasive.

6 MR. ROSENBLUM: What was that word?

7 MR. DAVIS: "Abrasive."

8 Q (By Mr. Davis) Did you say "abrasive"?

9 A Abrasive.

10 Q When Thomas Anderson -- Before the other gentleman came
11 in with Thomas Anderson, did you see anything in Tom's hands?

12 A The first time when he came in and said dude -- that the
13 dude's coming in, he didn't have nothing in his hands, but
14 when he got back with dude, he had a little briefcase.

15 Q Did you later find out what was in that briefcase?

16 MR. DAVIS: Well, strike that, please, Your Honor.

17 Q (By Mr. Davis) After Thomas Anderson said to him,
18 "That's exactly what these guys are going to do if I find out
19 about this, they're going to kill you," what happened?

20 A He said, "Okay, okay, okay; just please don't hurt me or
21 whatever." And then he said, "Well, get the fuck out of
22 here," and the dude got up out of there and left.

23 Q How long before you, Conflict and Tom left?

24 A Immediately.

25 Q So this whole incident, Mr. Hughes, from the point where

1 you turn the lights out and waited until you immediately left,
2 how much time are we talking?

3 A Ten minutes tops.

4 Q Okay. When you left, where did you go?

5 A We went to some hotel.

6 Q No. I mean immediately when you left, did you leave on
7 foot?

8 A Oh, yeah. We ran up a hill to like a residential area
9 and hopped in the truck.

10 Q What truck?

11 A The same one that picked me up at the -- at the airport.

12 Q Was it the gentleman -- the same gentleman driving the
13 truck?

14 A Yes, sir.

15 Q Was the truck waiting there for you?

16 A Yes, sir.

17 Q And was Thomas Anderson accompanying you through that?

18 A Yes, sir.

19 Q Did he have the briefcase with him?

20 A Yes, sir.

21 Q Now did you later find out what was in that briefcase?

22 A Yes, sir. About, I guess, two weeks later or a week
23 later I was contacted by this guy I know by the name of "T" or
24 "TJ." He does bouncer work in clubs, and he was like -- he
25 was like, "A dude named Steve Ballard want to talk to you."

1 I'm like, "Who is that?"

2 He's like, "He's a -- He's a big dude. He got money;
3 said he wants you to do some work for him."

4 I'm like, "What?"

5 He says, "Some bodyguard work."

6 I'm like, "Who?"

7 So when I got down there, I was meeting TJ, and TJ,
8 we was talking. Like three or four white guys walked up, you
9 know what I'm saying, I believe, with Steve Ballard and
10 Charlie or somebody else. And they -- they -- they walked up
11 on me, and I didn't like the situation, you know. And I told
12 dude like, "What the fuck is this? Who the fuck is they?
13 They just walking up on me like this?" Because I didn't know
14 none of them at the time. So he said, "They wanted -- They
15 wanted to talk to you about some stuff."

16 Q Did they explain to you what was in the briefcase?

17 A Yeah, they did.

18 Q What did they say was in the briefcase?

19 A Steve Ballard said it was \$275,000, and he said that he
20 wanted it.

21 MR. DAVIS: Can I have one second, Your Honor?

22 (Pause)

23 Q (By Mr. Davis) When you went to California at
24 Mr. Anderson's request to rough some dude up, did you know
25 anything about money?

1 A No. No, sir, I did not. I didn't know he was going
2 there to rob dude or take no money from him or whatever. I
3 just thought it was -- like I was going out there just to put
4 that little work in.

5 Q Did you ask, when he said we need somebody roughed up,
6 "Hey, why do you want somebody roughed up?"

7 A No. No, sir, I didn't. I usually don't ask no
8 questions.

9 Q Were you paid for your services of you and Conflict
10 flying to San Jose and doing what you just said?

11 A Yes, sir.

12 Q By Thomas Anderson?

13 A Yes, sir.

14 Q How much?

15 A Five thousand dollars.

16 Q Does that include the airplane ticket and meals and all
17 that?

18 A No. He paid for everything.

19 Q So it's a \$5000 payment plus all your expenses.

20 A Yes.

21 Q The person who was assaulted in the hotel room, did you
22 later find out what that man's name was?

23 A Yeah. I later found out that it was Kyle Kienstra
24 because he said -- like he sent Steve Ballard to find me, and
25 TJ and this dude was supposed to find me or had found me. He

1 tricked me into coming down to the Social House into the
2 meeting with Steve Ballard and them. So ---

3 Q Did you eventually speak to Kyle Kienstra himself?

4 A Yes, sir.

5 Q Okay.

6 A They called me on the phone.

7 Q Okay. That's all. That's all.

8 MR. DAVIS: That's all I have, Your Honor. Thanks.

9 THE COURT: Cross Examination, Mr. Rosenblum?

10 CROSS EXAMINATION

11 QUESTIONS BY MR. ROSENBLUM:

12 Q Good afternoon, Mr. Hughes.

13 A How are you doing, sir?

14 Q Mr. Hughes, when you first met the FBI, you were at the
15 St. Louis Justice Center?

16 A Yes, sir.

17 Q And how did that meeting take place? Who reached out to
18 whom?

19 A There was -- They reached out to me.

20 Q Okay. They found you there, right?

21 A Yes, sir.

22 Q And I would assume you didn't invite them there, right?

23 A No, sir.

24 Q It's pretty alarming when the FBI shows up, especially
25 when you're locked up.

1 A Yes, sir.

2 Q You're pretty scared?

3 A No, I wouldn't say scared.

4 Q How about concerned?

5 A Yes, of course, I was concerned.

6 Q And I assume you weren't at the Justice Center on a
7 vacation.

8 A No, sir.

9 Q What were you there for?

10 A I was there for felon in possession of a firearm.

11 Q So you were there on a federal charge?

12 A No, sir.

13 Q State charge?

14 A Yes, sir.

15 Q And you were there on a \$30,000 bond?

16 A Yes, sir.

17 Q A bond that you couldn't make, right?

18 A Right.

19 Q And was that a bond that you tried to reach out to
20 Kyle Kienstra to help you make at some point?

21 A No; not necessarily, no. He called -- He called
22 allegedly concerned for my welfare or whatever because I guess
23 he had heard something, you know, but nothing that would
24 (inaudible).

25 Q So this was in 2014, right?

1 A Yes, sir.

2 Q And ---

3 A No, sir. Well, yes, sir.

4 Q Well, the report I have said that you met with the FBI on
5 February 14th and February 21st of 2014.

6 A That's correct.

7 Q Does that sound about right?

8 A Yes, sir.

9 Q So during that period of time, you were in the Justice
10 Center, locked up on a \$30,000 bond, and they come to visit
11 you, correct?

12 A Yes, sir.

13 Q Now you said that the charge was felon in possession, so
14 that presupposes that you were already a felon, right?

15 A Yes, sir.

16 Q And what were your prior felonies, if you could share
17 that with the Court?

18 A Like back when I was 17, if I'm not mistaken it was a
19 breaking and entering. And if it wasn't breaking and
20 entering, it was theft from a person; one of the two.

21 Q Okay. So you have a ---

22 A I don't -- I'm not -- I'm not recalling which one came
23 first, but they was right around the same period. And after
24 that, I had delivery of simulated controlled substance,
25 two-way cocaine which is baking soda; sold to undercover. And

1 then later on I ended up getting in trouble and getting 40
2 years for possession of cocaine and delivery of cocaine.

3 Q You got 40 years?

4 A Yes, sir.

5 Q Okay. Well, let's take that one by one. So as a younger
6 man, you were charged with breaking and entering and theft
7 crimes, correct?

8 A Yeah. I got six years for that. Then I got five years
9 and then I got forty.

10 Q Okay. Well, with respect to your first charge, the
11 breaking and entering and the theft charges, and then you
12 followed that up with selling fake dope, right? Essentially.

13 A Yes, sir.

14 Q So you would agree with me that those are crimes of --
15 not only are they crimes but they're crimes showing your
16 dishonest character, correct?

17 A I disagree.

18 Q Well, do you think theft -- a theft crime speaks of your
19 honesty or your dishonesty?

20 A It depends on who's looking at it and what the situation
21 is.

22 Q Well, I'm looking at it now.

23 A In my opinion -- In my opinion, yeah, I stole and I broke
24 into someone's house, but I mean it's wrong, and I know it's
25 wrong, but did that make me a bad person?

1 Q I'm not asking you if you're a bad person. I'm asking if
2 you would agree with me that your prior crimes show that they
3 were crimes of not only crimes but crimes of dishonesty.

4 A Yes, sir.

5 Q Okay. So we have a theft crime, and then we have you
6 selling fake dope, right?

7 A Yes, sir.

8 Q So we have those crimes of dishonesty, and then you
9 follow that up with another crime where you got 40 years,
10 correct?

11 A Yes, sir.

12 Q I would assume at some point you got paroled because
13 you're here.

14 A Yes, sir.

15 Q And now you have -- So you had three prior offenses,
16 facing a \$30,000 bond in the city -- charged in the state
17 court, correct, as of last year?

18 A Right. But what you don't know is that when the FBI
19 reached out to me, I had already been in court, been tried and
20 sentenced.

21 Q When the FBI reached out to you, you're saying you had
22 already been to court and you received a sentence?

23 A Yes, sir.

24 Q And what was your sentence?

25 A Six months.

1 Q So after all that, you went to trial and you got six
2 months?

3 A No, sir, I didn't go to trial. I pleaded out.

4 Q Okay. Now before you pled out, did the FBI get involved
5 in any plea negotiations?

6 A No, sir, they didn't.

7 Q Did they -- Did the FBI contact the Assistant Circuit
8 Attorney that was on your case, to your knowledge?

9 A No, not to my knowledge.

10 Q Is it possible that they did?

11 A No, sir, it's not possible.

12 Q When you -- When the FBI showed up, one of the things
13 they told you is that you were a target in this investigation.
14 In fact, you're listed as one of the primary targets in a
15 search warrant. They told you that, didn't they?

16 A No, sir.

17 Q You had no idea that when the FBI showed up, your name
18 was among the names listed in a federal search warrant in this
19 case?

20 A No. Well, I don't -- I'm not -- I don't know about that,
21 but what I do know is that they told me that somebody had --
22 Thomas -- Tommy Anderson's organization had said that I was --
23 I worked for Tommy and I was his like -- What term was used?
24 Like I was his go-to guy to handle things.

25 Q Well, Mr. Hughes, some of the others things -- I'm

1 speculating, and you can correct me if I'm wrong -- that the
2 FBI told you in that meeting after they *Mirandized* you, and
3 you've been in the system long enough to know what that means,
4 right?

5 A Yes, sir.

6 Q Okay. And they did *Mirandize* you, correct?

7 A Yes, sir.

8 Q And after they *Mirandized* you, they told you that you
9 were facing federal narcotics charges, didn't they?

10 A Well, ---

11 Q You were there. They told you you were facing federal
12 narcotics charges, did they not?

13 A Yes, sir, I think they did.

14 Q Okay. Well, that's something you'd probably remember.
15 It was only last year; about eight months ago, nine months
16 ago.

17 MR. DAVIS: Your Honor, (inaudible).

18 MR. ROSENBLUM: I'll withdraw it.

19 THE COURT: Okay.

20 Q (By Mr. Rosenblum) So as of February, they told you you
21 were -- February of 2014, which is approximately eight months
22 ago, they told you you were a target in a federal narcotics
23 investigation, did they not?

24 A I answered the question, sir. I said: Yes, sir.

25 Q And they also told you that you have an opportunity to

1 help yourself, correct?

2 A Yes, sir.

3 Q And they told you one of the ways that you can help
4 yourself (a) by possibly not being charged in this case is by
5 cooperating with them, correct?

6 A Yes, sir.

7 Q That was something that you were very much interested in,
8 correct?

9 A Yes, sir.

10 Q And you knew that if you cooperated with the FBI and got
11 on their good side and gave them information that they wanted,
12 then you could prevent these charges which you knew, based on
13 your record, would carry potentially the rest of your life,
14 right?

15 A Yes, sir.

16 Q They, in fact, told you that you were facing basically
17 the rest of your life, correct?

18 A Yes, sir.

19 Q That gave you some substantial motivation to not only
20 work with them but to get on their good side to prevent that,
21 correct?

22 A Yes, sir, but not -- not for real. See, really,
23 honestly, it's not even about me. It's not even about me
24 doing no time or me being locked up or whatever. It's
25 about -- It's about being real. It's about being honest with

1 keeping your word. It's about ---

2 Q I appreciate that, and I appreciate the fact that you're
3 here just trying to be real based on your record. And I would
4 ask that you just answer my questions. Mr. Davis can ask you
5 questions on Redirect.

6 But in addition to wanting to be real, you certainly
7 didn't want to spend the rest of your life in prison, right?

8 A No, sir.

9 Q No matter how real you wanted to be, that was something
10 you wanted to avoid, correct?

11 A Yes, sir.

12 Q Okay. I just wanted to get sort of the lay of the land
13 about where you were at that time, right? Okay?

14 A Yes, sir.

15 Q Now what else the FBI told you -- They met with you for
16 substantial -- a substantial number of hours not only on the
17 14th but on the 21st, correct?

18 A Yes, sir.

19 Q How many hours did they meet with you, DEA Agent Moles,
20 as well as Mr. Cunningham, the FBI agent, on the 14th do you
21 think?

22 A About two hours, I believe.

23 Q And then they followed that up on the 21st with another
24 meeting, correct?

25 A Yes, sir.

1 Q Now how many times did they have to correct you and tell
2 you that they didn't think that you were being honest with
3 them?

4 A I don't recall.

5 Q Well, you're not saying that didn't happen, are you?

6 A I'm saying I don't recall them telling me that.

7 Q Okay. Do you recall being corrected by the FBI and they
8 having to remind you that you better -- that you have to be
9 honest?

10 A No.

11 MR. DAVIS: Asked and answered, Your Honor.

12 A No, sir, I didn't. I never -- never -- No.

13 Q (By Mr. Davis) Now you wanted to know ---

14 A They never did -- They never say nothing about me being
15 dishonest because ---

16 Q You wanted to know what was going to happen in this case,
17 did you not?

18 A I didn't know. I didn't ask.

19 Q You never asked?

20 A No.

21 Q You just took it on face value that you weren't going to
22 be charged and facing life in the penitentiary?

23 A No, sir, I didn't take nothing at face value.

24 Q Did you question -- Did you ever obtain a lawyer for this
25 particular cause?

1 A No, sir.

2 Q And after you met with the FBI and the DEA on those two
3 particular dates, you had a number of meetings with them
4 afterwards, right?

5 A Could you repeat that?

6 Q After the meeting, the initial meetings you had in the
7 beginning and middle of February, the 14th and the 21st, you
8 had a number of meetings with agents for the Federal
9 Government after that occasion -- those occasions, correct?

10 A Yes, sir.

11 Q How many total meetings do you think you had?

12 A Somewhere between five and ten.

13 Q Okay. Now is it fair to say that at some point in those
14 meetings with the FBI the question of leniency and potential
15 prosecution in this case came up?

16 A Attorney sir, I don't remember.

17 Q You don't remember?

18 A No, sir.

19 Q You don't remember ever ---

20 A That's my honest answer.

21 Q You don't remember having any discussions about how you
22 can prevent spending the rest of your life in the
23 penitentiary?

24 A No, sir.

25 Q Now when you were talking to the FBI about what you say

1 your involvement was in this case, you indicated to them that
2 your initial meeting with Mr. Anderson was in 2009 when you
3 were working at Lucas Park as a bouncer, correct?

4 A Yes, sir.

5 Q And I think what you said is that the initial meeting was
6 that he wanted to say -- he asked you to take care of him,
7 right?

8 A Yes, sir.

9 Q Well, in fairness, that's not that unusual in the club
10 scene, is it, that somebody comes in and wants to be treated
11 like a VIP guy? Right?

12 A No. It happens all the time.

13 Q And it happened all the time to you, right?

14 A Yes, sir.

15 Q And that's how you made extra money by capitalizing on
16 the guys that wanted to throw a few dollars around just to be
17 taken care of a little specially, the VIP treatment, right?

18 A Yes, sir.

19 Q And, in fact, you said to the Court that you didn't know
20 who engaged who subsequently about a bodyguard. Your -- Fair
21 to say you're -- what word do I want to use -- a bit of an
22 opportunist when it came to making money back then, right?

23 A Yes, sir.

24 Q I mean you liked to capitalize on whatever opportunity is
25 presented, correct?

1 A That's what the world is based on.

2 Q I understand. And that's what you were basing it on,
3 right?

4 A Yes, sir.

5 Q Because you weren't getting paid all that much as the
6 bouncer at Lucas Park. So what you wanted to do is sort of
7 expand your role and sort of be like a VIP concierge, right?

8 A No, sir.

9 Q But you certainly wanted to take advantage of your
10 position there and those that were willing to pay you by
11 giving them a little extra attention to make them feel
12 special, right?

13 A No, sir, not everybody. Depends on -- Just depends on if
14 I like or want to deal with that person.

15 Q Right. But, again, Tommy Anderson wasn't the only person
16 that put you in that situation, right?

17 A No, sir.

18 Q And what Tommy was asking is just essentially, because
19 you are on Washington Avenue, late at night, that if he was
20 there with any young ladies, that you would walk them out and
21 make sure that they would get to their car, right?

22 A Among other things.

23 Q Well, that's among the things that he was asking you to
24 do, and that certainly wasn't uncommon or unusual, was it?

25 A No, sir.

1 Q In fact, not only -- not only would you do it for
2 Tommy Anderson, you would do it for anybody that asked you
3 because your boss told you to, right?

4 A No, sir.

5 Q Did you do it for a number of people?

6 A No, sir.

7 Q So the only person that you walked young ladies to was
8 for Tommy Anderson? That's what you're telling the Court?

9 A No, sir. What I'm telling you is -- is that
10 Tommy Anderson is the only person that paid me to do it.

11 Q Okay. So he gave you an extra tip, right?

12 A Yes, sir.

13 Q You were always looking for tips, though, down there,
14 weren't you?

15 A Yes, sir.

16 Q Okay. Did you suggest getting tipped for a little extra
17 special service?

18 A No, sir.

19 Q And certainly, again, once again, a number of people
20 would do that just for extra attention, right?

21 MR. DAVIS: Asked and answered.

22 A No, sir.

23 Q (By Mr. Rosenblum) Okay. Now with respect to the other
24 things that Tommy was asking you to do back in 2009, it was
25 just essentially, what, did they set up on a private table or

1 something and you were just to watch to make sure they got
2 good service?

3 A No. It wasn't -- I mean it depends. If I'm working in
4 in the club, I'm working in the club. If I'm working for
5 Tommy Anderson, I'm working for him.

6 Q Well, I'm talking about one of the things you testified
7 to on Direct when you said in 2009 you were a bouncer and he
8 asked you to just take care of him. I'm trying to learn what
9 that meant. That's what you said to Mr. Davis. That's what
10 you said to the FBI. What did that mean? We've established
11 you would walk out some girls to the car. What else did it
12 mean?

13 A As simple as that; look out for him. In other words, you
14 have to -- You know, really the best person to ask, who that
15 is is Mr. Anderson --

16 Q Well, sir, ---

17 A -- what does it mean to look out for him because in my
18 opinion, while we was in the club, he wanted to make sure he
19 was good. That's it. His table, his -- where he sits and all
20 that was paid for because he had the money to pay for it.

21 Q Well, you're the one on the witness stand. Okay, sir?

22 And when you say that that was good, did you ever
23 have to break up an altercation involving Tommy Anderson while
24 you were working as a bouncer?

25 A No, sir.

1 Q Did he ever call you to the table and say, "Hey, Big, I
2 got a situation here; I need your help"?

3 A No, sir.

4 Q Did he ever -- Was there ever even a dispute that called
5 your attention over, that you had to calm somebody down
6 because of Tommy Anderson while he was in the club?

7 A I believe so. It was -- It was far back. I believe so.
8 I believe he had had some kind of small/medium confrontation,
9 but it wasn't like he was so confrontational that he had
10 always had a problem where he was always -- No. It was -- If
11 a situation arose, that's what it was.

12 Q In fairness, he was pretty chill as far as a regular
13 customer, right?

14 A In my opinion, yeah.

15 Q Okay. And that's what your job was as a bouncer, just to
16 watch out for everybody in the club, right?

17 A Yes, sir.

18 Q Now you said at some point in 2010 you went to work for
19 him personally, right?

20 A Yes, sir.

21 Q And as I recall your testimony, you couldn't tell the
22 Judge who approached who, right?

23 A Yes, sir.

24 Q But Tommy, being always nice to you, that wouldn't have
25 been unusual for you to approach him and say, "Hey, you got

1 some extra work for me," because you're always looking to
2 hustle an extra buck? Fair enough?

3 A I said I don't remember.

4 Q I understand. So you can't say who approached whom, but
5 it wouldn't be unusual for you to look for an opportunity to
6 hustle another dollar, right?

7 A I said I don't know who approached who.

8 Q I got that part. My next question: Given your
9 circumstance back in 2010, it wouldn't be unusual for you to
10 look for an opportunity to hustle up another dollar, right?

11 A Yes, sir.

12 Q And in that role, you asked him if you had any -- if he
13 can do anything for you?

14 A No, sir. I don't recall --

15 Q Okay.

16 A -- asking Mr. Anderson what did Mr. Anderson ask me.

17 Q But in any event, you claim you started hanging out with
18 Mr. Anderson, and he introduced you as a bodyguard, right?

19 A Yes, sir.

20 Q Well, in fairness, we're going back to 2010, right?

21 Right?

22 That's when you're talking about these events, right?

23 A Yes, sir. Sometime in that time period.

24 Q Okay. And in 2010, you would have been approximately 41
25 years of age, correct?

1 A Yes, sir.

2 Q And Tommy Anderson and his friends would have been in
3 their early twenties, correct?

4 A I don't know. I never knew how old he was.

5 Q Well, you can tell ---

6 A I knew he was over 21.

7 Q Other than being over 21 because you may have carded him
8 at one time, you can't say how old he was, but he appeared to
9 be a pretty young man, right?

10 THE WITNESS: Your Honor, I don't ---

11 THE COURT: You don't know how to answer it?

12 THE WITNESS: No, because to me, he ---

13 THE COURT: Could you rephrase it, please?

14 MR. ROSENBLUM: I'll rephrase the question.

15 Q (By Mr. Rosenblum) Did Tommy Anderson appear
16 substantially younger than you in your opinion?

17 A Yes.

18 Q Okay. And would it be fair to say that when he was
19 introducing you as his bodyguard, you weren't hanging out with
20 these guys just to socialize, right?

21 A No, sir. Now we had went out -- We went out before just
22 socially. But when he called me and put me to work, he called
23 me and put me to work.

24 Q Okay. And when you would go out and socialize, that was
25 something you enjoyed, right?

1 A No, not really.

2 Q Well, were you getting paid?

3 A Going out -- Going out and socializing or working?

4 Q Going out and socializing.

5 A Was it something I enjoyed?

6 Q Yeah.

7 A Of course, you enjoy going out and socializing, right.

8 That's why you go out.

9 Q And you guys would go out and drink, and he'd buy your

10 drinks and things of that nature, correct?

11 A Did he buy me drinks? Yes.

12 Q You never saw Tommy Anderson with a gun, did you?

13 A No, sir, I haven't.

14 Q Even when you were working -- quote/unquote -- "as his

15 bodyguard," you never saw him with a gun, right?

16 A No, sir. Just like I told the FBI, I have never seen

17 Tommy Anderson with a gun.

18 Q You never -- You never carried a gun during these periods

19 of time, right?

20 A No, sir.

21 Q That wasn't -- That wasn't until you picked up your case

22 in 2014, right? Or '13?

23 A Right.

24 Q After you were dealing with Thomas Anderson, correct?

25 A Yes, sir.

1 Q Now you told the FBI about -- And, incidentally, when you
2 were working as -- quote/unquote -- "a bodyguard" and you were
3 out with him, and I'll get to that incident that you talked
4 about where you were called, there was never anything you ever
5 had to do to stop any violence, right?

6 A No, sir, not -- not to my knowledge.

7 Q Well, you're the only person I can ask about that right
8 now because you're on the stand. So as you're sitting here
9 searching your mind, as you were working for Mr. Anderson
10 as -- quote/unquote -- a "bodyguard," did you ever have to
11 break up any violence?

12 A Sir, I can't say for certain because I really -- I really
13 -- I don't think so, but I think there might have been a minor
14 incident or two in the club where it was something, but --

15 Q But you could be confused.

16 A -- that happens all the time.

17 Q Okay.

18 A So as far as him having some type of personal contact,
19 that only happened the one time.

20 Q You told the FBI and you told Mr. Davis about an incident
21 where you -- during this period of time where you were called
22 upon to break up some dispute or altercation by Mr. Anderson.
23 Do you remember that?

24 A Yes, sir.

25 Q And I think you told Mr. Davis that as you recall it,

1 Mr. Anderson was at Lucas Park when this call was made, right?

2 A Yes, sir. He was in Lucas Park and I was out in the
3 Loop.

4 Q You were out in the Loop? At the Loop in U. City?

5 A Yes, sir.

6 Q Okay. So it would be wrong when you told the FBI that
7 actually Mr. Anderson called you and told you that the dispute
8 and the altercation was actually in University City and asked
9 you to travel to University City. Did the -- Did the DEA
10 Agent get that wrong in his DEA report?

11 A I don't know. Would you repeat what you said at first
12 again?

13 Q Do you recall when you relayed this story -- When you
14 relayed this particular story to the DEA and the FBI during
15 February of 2014, do you recall telling them on that occasion
16 that the way you recall it is that Mr. Anderson and his
17 associates were at a bar in University City?

18 A No, sir. No, sir.

19 Q So that was ---

20 A Yes, they got it wrong. He was down at Lucas Park.

21 Q They got it wrong, or you're remembering it differently
22 this time?

23 A However you want to put it, sir.

24 Q Well, which way is right? Did they get it wrong or are
25 you changing the story?

1 A There ain't -- There ain't no change to the story. The
2 story goes like it goes.

3 Q And in any event, what happened is essentially a big
4 nothing because you show up, and there's Tommy Anderson who
5 said, "There's nothing going on," right?

6 A No. He told me exactly what went on.

7 Q And did you have to break up an altercation?

8 A No, sir, I didn't.

9 Q Did you see any injuries or damage to Mr. Anderson's
10 person?

11 A I think -- I think he was -- his -- his nose was bleeding
12 or his lip was busted or something, but not -- something like
13 that. It was some type of injury but it was minor.

14 Q Well, why didn't you mention that to the FBI when you
15 gave them your debriefing in February?

16 A I didn't see the purpose -- I didn't see the importance
17 of saying that he was injured to me.

18 Q My question is: Did this ---

19 MR. DAVIS: Your Honor, if he's going to ask a
20 question, can I at least ask him to be instructed --

21 MR. ROSENBLUM: I'll rephrase it.

22 MR. DAVIS: -- to let him answer the question?

23 MR. ROSENBLUM: I'll -- I'll slow down.

24 THE COURT: Yeah. You should let him -- Let him
25 finish his answer, Mr. Rosenblum, and then you can ask him the

1 next question.

2 MR. ROSENBLUM: Okay. No problem.

3 Q (By Mr. Rosenblum) My question to you, sir, is this:

4 Your testimony now is you think you may have seen some slight,
5 what, blood on his nose? Is that it?

6 A That's right, yes, sir.

7 Q Okay. Did you make that statement to the FBI? To the
8 people you were talking to? The DEA? The FBI?

9 A I don't recall.

10 Q You don't recall? If it's not in the report, can we
11 assume you didn't say it?

12 A I guess we could assume that.

13 Q Okay. Then you tell the -- Then you go on about this
14 incident in San Jose, correct?

15 A Excuse me?

16 Q You go on about this incident where you were called to go
17 out to San Jose, California to meet this individual; an
18 individual, right?

19 A Yes, sir.

20 Q Now -- And I think what you said was the initial request
21 was that you come out here and basically scare somebody or
22 don't hurt them too badly, don't rough them up too badly. Was
23 that the initial request?

24 A Yes, sir.

25 Q And so why did you feel you needed ---

1 A That was the request, period, sir.

2 Q That was the request, period. Okay. So even though
3 those were your marching orders, why did you feel it was
4 necessary to bring your friend, Mr. Lambert, with you?

5 A Because he said I might need some help. That's how he
6 felt.

7 Q That you may need some help to -- just to gently toss
8 somebody?

9 A Yes, sir.

10 Q You didn't go out there with a gun, right?

11 A No, sir.

12 Q Did you ever show Tommy Anderson a gun that you carried?

13 A No, sir.

14 Q To your knowledge, would Tommy Anderson think that you
15 would ever carry any sort of a weapon?

16 A No, sir. He shouldn't have no reason to.

17 Q Exactly. Because you never told him you ever had a
18 weapon or anything that -- any sort of instrument that could
19 apply any sort of deadly force, right?

20 A Correct.

21 Q So as I understand then, the way this goes down in
22 San Jose, California is -- And I was trying to take notes when
23 you were telling the Court. You arrive out there with
24 Conflict who may or may not -- who you refer to as your
25 brother but who's not your brother, correct?

1 A Yes, sir.

2 Q And then who -- who picks you up when you arrive in

3 San Jose?

4 A I don't remember the guy's name.

5 Q Was Tommy Anderson with him?

6 A No, sir.

7 Q And at some point you go to some resort area, and you

8 spend the night, right?

9 A No, sir. The first was like some little shady motel.

10 Q Okay.

11 A Then the next morning we went out to the resort then.

12 Q Okay. And then at some point you're requested to go meet

13 this individual, right?

14 A Excuse me?

15 Q At some point you're directed to a place to meet this

16 individual that you're supposed to talk to?

17 A No, sir. I wasn't there to talk to nobody. I was

18 supposed to meet the individual, the guy I was supposed to

19 intimidate, put my hands on him, however you want to put it.

20 Q Intimidate. So how did you get to that location?

21 A Rode with the guy in the Jeep.

22 Q So it was just you or was it you and Conflict?

23 A Me and Conflict.

24 Q Okay. So the three of you and the guy in the Jeep then

25 ride to a location that you described how?

1 A As a motel.

2 Q And at that point in time, and I'm looking at my notes, I
3 think you said you received a call from Tommy Anderson? A
4 telephone call.

5 A When did I receive a telephone call?

6 Q Well, I thought you testified ---

7 A When I was riding out to the ---

8 Q When you were riding out to the place.

9 A I can't -- I really can't remember if I had received a
10 phone call from Mr. Anderson or not. That was a long time
11 ago.

12 Q I understand it was a long time ago, but it wasn't a long
13 time ago when you testified on Direct Examination about 20
14 minutes ago when I believe you said that as you were riding,
15 you received a telephone call from Mr. Anderson saying, "He's
16 here." Do you recall saying that?

17 A No.

18 MR. DAVIS: (Inaudible).

19 THE COURT: Yeah. I'm going to sustain the
20 objection. The record is going to reflect whatever the
21 witness actually said.

22 MR. ROSENBLUM: Okay. No problem.

23 THE COURT: So let's move on.

24 Q (By Mr. Rosenblum) So as your recollection is now, on
25 the way out there you did not receive a call from

1 Tommy Anderson? I'm just trying -- Because my notes are
2 different than the police report.

3 MR. DAVIS: The phone call was during the trip.

4 Q (By Mr. Rosenblum) When did you receive -- Did you ever
5 receive a phone call from Tommy Anderson directing you to go
6 to a place, sir?

7 A I honestly don't remember.

8 THE WITNESS: I mean if he wants me to try to draw a
9 scenario up, ---

10 THE COURT: Just try to answer the question if you
11 can. If you can't answer the question, ---

12 A I do not remember -- I do not remember Tommy Anderson
13 calling me from the plane, after I got off the plane, on the
14 trip to the hotel. I don't remember seeing Mr. Anderson until
15 the next morning at the hotel, the first hotel before I go to
16 the resort to assault the dude.

17 Q (By Mr. Rosenblum) Okay. So the first time was that
18 morning before you go to the place to intimidate this person,
19 right?

20 A Yes, sir.

21 Q Now on the way there -- And that's maybe where I was
22 confused. On the way to meet this person, the purpose of your
23 trip, did you receive a phone call from Tommy Anderson?

24 A No, sir.

25 Q Did you ever receive a phone call from Tommy Anderson

1 before you entered that apartment or hotel or whatever it is?

2 A I don't recall, sir.

3 Q And how did you know where to go?

4 A I didn't know where to go. The guy driving the Jeep knew
5 where to go because he's from, I guess, California, Central
6 California, Northern, Southern California.

7 Q Okay. So tell me: As you arrive, when is the first time
8 that you see Tommy Anderson in connection ---

9 A The next morning at the first hotel.

10 Q At the first hotel, but now I'm past the first hotel. I
11 want to get to the point where you were going to intimidate
12 this person.

13 MR. DAVIS: (Inaudible). The question is simple.
14 (Inaudible).

15 MR. ROSENBLUM: Feel free.

16 MR. DAVIS: The first night you stayed at a hotel
17 when the Jeep brought you there.

18 THE WITNESS: Yes, sir.

19 MR. DAVIS: The next morning you woke up, did you see
20 Tommy Anderson?

21 THE WITNESS: Yes, sir.

22 MR. DAVIS: Can you tell the Court how that happened?

23 THE WITNESS: He pulled up. He pulled up with ---

24 MR. DAVIS: Pulled up to where?

25 THE WITNESS: He pulled up to the hotel, and we got

1 out. We got out. I guess he pulled to the hotel, called us,
2 told us to come out. We came out and went to the resort.

3 MR. DAVIS: When you and Conflict walked out, did you
4 get in that Jeep?

5 THE WITNESS: Yes, sir.

6 MR. DAVIS: Who else was in the Jeep?

7 THE WITNESS: Tommy Anderson and the other white guy.
8 I don't remember his name.

9 MR. DAVIS: So he rode all the way with you to the
10 resort, Tommy.

11 THE WITNESS: Yes, sir.

12 MR. DAVIS: Okay.

13 Q (By Mr. Rosenblum) Did you walk into the resort -- into
14 the room with Tommy Anderson?

15 A Yes, sir. We walked to the registration counter to get
16 the room and then to the room.

17 Q And you waited in the room?

18 A Yes, sir.

19 Q Now did Tommy Anderson carry to the room anything in his
20 hands?

21 A No, sir, I don't remember.

22 Q You don't remember?

23 A I don't remember him having anything in his hands at that
24 time.

25 Q So -- And just so I'm clear because I thought you said on

1 Direct Examination that you received a phone call from
2 Tommy Anderson stating, "I'm here," or, "He's here," did you
3 receive such a phone call?

4 A No, sir. I -- I said that he came in and told us that he
5 was here. He was here to get us ready. You know what I mean?
6 He came back in there like, "He's here." No. First, he came
7 in. He said, "He's on his way! He's on his way! Get it
8 together!" He told us to get it together so when he comes,
9 we'll be ready. Then he went back out, and he came back and
10 said he was here; he was here. So that's when we turned the
11 lights out. Mr. Kienstra came in the room first and
12 Mr. Anderson was behind him.

13 Q Now -- So he left and then came back in the room with
14 Mr. Kienstra is what you're saying.

15 A Yes, sir.

16 Q All right. And that's when you followed your marching
17 orders which was to not hurt anybody too badly and sort of
18 intimidate him, right?

19 A Right.

20 Q And you, what, punched him one time through a shake, I
21 think you said, right?

22 A Yes, sir. I swung at him. I swung and punched him
23 through the shake the first time, and I think Conflict might
24 have hit him. I'm not for sure because I was watching
25 everything in real time, but I know he was up on the floor

1 like.

2 Q Okay, slow down. Now you say you think Conflict hit him.
3 Now you didn't mention any of that to the FBI when you spoke
4 in February, did you?

5 A I don't recall. I know --

6 Q If it's not in the report, can we ---

7 A -- every time I tell -- every time I tell it, I tell it
8 the same way.

9 Q Well, if you didn't mention anything about Conflict maybe
10 hitting him, is it fair to say that he may not have hit him or
11 you may not have mentioned that to the FBI?

12 A He may not have hit him.

13 MR. DAVIS: I'm going to object to the compound
14 question, Your Honor. I have no idea what that question is.

15 MR. ROSENBLUM: Okay. I'll withdraw it.

16 THE COURT: Okay.

17 Q (By Mr. Rosenblum) Let me ask you this: When you hit
18 him through the milk shake, did he need any medical attention?

19 A No, sir.

20 Q Was he bleeding?

21 A I don't recall.

22 Q Did he -- Did you open up any wounds?

23 A I don't recall. I don't believe.

24 Q And he didn't ask to be taken for any medical attention,
25 right?

1 A No, sir.

2 Q I think on your Direct Examination you said at that point
3 in time you left with Mr. Anderson and he was carrying a
4 briefcase, right?

5 A Yes, sir. Because when he came back in with Kienstra,
6 that's when he had the briefcase. Prior to that, he didn't
7 have one.

8 Q And is it fair to say that you have no personal knowledge
9 as to what was in that briefcase?

10 A That's very fair to say. I don't know what was in there.

11 Q Is it fair to say that you never told the FBI that
12 Mr. Anderson -- Strike that.

13 And Mr. Anderson never told you what was in that
14 briefcase.

15 A No, sir, he didn't.

16 Q He did not. So why was it then -- And you're certain of
17 that today under oath?

18 A Am I certain that Mister --

19 Q Yeah.

20 A -- Anderson never told me -- What's your question?

21 Q That Mr. Anderson never told you what was in that
22 briefcase when he left the room.

23 A That's correct.

24 Q So my question then is: Why would you have told the FBI
25 then that Mr. Anderson told you that -- Let me strike that.

1 Did Mr. Anderson ever tell you why you were asked to
2 intimidate Mr. Kienstra?

3 A Excuse me. Can you repeat that?

4 Q Did Mr. Anderson tell you why he was asking you to
5 intimidate Mr. Kienstra?

6 A No, sir, he didn't.

7 Q So as far as you are -- As far as you're aware, as you're
8 testifying here today, you have no idea the purpose of this
9 intimidation?

10 A No, sir, I had no idea at that time. No, I didn't. I
11 had no idea.

12 Q And nor have you ever learned anything subsequent to give
13 you an idea of the purpose of this alleged intimidation,
14 right?

15 A Repeat the question, please.

16 Q Nor have you learned anything since that event of this
17 alleged intimidation, what the purpose of it was.

18 A No, that's not true. I was contacted by -- I was reached
19 out to by some guy named "TJ" to come down to the Social House
20 to meet with some guys for me to do some work. And when I got
21 down there, the dudes down there, Steve Ballard and somebody
22 else, three -- three or four other white guys and they wanted
23 to talk to me. So at that time I was wondering what they
24 wanted to talk to me about. So then Mr. Ballard told me that
25 I helped Tommy Anderson rob Kienstra for \$275,000.

1 Q Okay. Now, again, my question is: Are you claiming that
2 Mr. Anderson ever told you what the purpose of this alleged
3 intimidation was?

4 MR. DAVIS: Asked and answered repeatedly.

5 THE COURT: Yeah; sustained. Sustained.

6 Q (By Mr. Rosenblum) Did you tell the FBI that
7 Mr. Anderson told you that Kienstra owed him \$90,000?

8 A Excuse me?

9 Q Why is it that you told the FBI that Mr. Anderson -- that
10 you claim that Mr. Anderson told you the purpose of this was
11 that Kienstra owed him, Anderson, \$90,000?

12 A I don't remember. I don't -- I don't really remember
13 that. I remember Mr. Anderson contacting me to go out there
14 to rough dude up. I'm -- I'm ---

15 Q You don't remember ---

16 A He didn't tell nothing about no \$90,000 at all.

17 Q You don't remember telling the FBI that you claimed that
18 Anderson told you that Kienstra owed him \$90,000?

19 A I don't recall, sir.

20 Q And I know you haven't seen any of these reports, but
21 would any of these reports refresh your recollection of what
22 you told the FBI?

23 A It's possible.

24 MR. ROSENBLUM: May I approach, Your Honor?

25 THE COURT: Yes.

1 MR. DAVIS: For evidentiary purposes, are you asking
2 that his memory be refreshed?

3 MR. ROSENBLUM: Correct.

4 THE COURT: Is that what that is? I don't know what
5 it is.

6 (Inaudible)

7 A This one right here in the yellow? No, sir, I don't
8 remember saying that.

9 Q (By Mr. Rosenblum) So if they attribute that to you,
10 they would have gotten it wrong?

11 A I don't remember saying that.

12 Q Because, in fact, Mr. Anderson never told you any
13 particular reason is what you're claiming, right?

14 A Right.

15 Q Now fair enough that you talked about this meeting with
16 Mr. Ballard, and he approached you with some other white
17 dudes, white guys, and said do you want to come to work for
18 them, right?

19 A No, sir. He explained to me that I helped Tommy Anderson
20 rob a guy named Kyle Kienstra, who I didn't know at the time,
21 for \$275,000.

22 Q 275,000 or 270 is what you told the FBI? Do you remember
23 the number?

24 A 270 round about.

25 Q Round about. So you're just ---

1 A \$270,000 kept my attention.

2 Q Okay. So if you said 275 today, you may have misspoken?

3 A I may have misspoken, yes, sir.

4 Q And then at some point in time, as I understand it, you
5 actually then go to work for Mr. Kienstra, right?

6 A Yes, sir.

7 Q And Mr. Kienstra starts, being the opportunist that you
8 are, he starts paying you, right?

9 A Yes, sir.

10 Q And he starts paying you to beat up Tommy Anderson?

11 A No. He -- He started paying me for bodyguard work, too.

12 Q Well, didn't he -- didn't you also tell the FBI that part
13 of your duties with Mr. Kienstra was to beat up Mr. Anderson?

14 A No, sir. I don't -- I don't recall that because I know
15 it wasn't about me beating up Mr. Anderson. Mr. Kienstra
16 wanted me to stay out of the way. In other words, let him get
17 to Tommy Anderson to hurt him or harm him, you know. That's
18 all.

19 Q Okay. So -- Okay. So being the opportunist that you
20 are, Mr. Kienstra was paying you that if Mr. Kienstra ever had
21 the opportunity to beat up Mr. Anderson, you were then
22 supposed to just stay out of the way, right?

23 A Yes, sir.

24 Q But in fairness, none of this was -- none of this -- none
25 of this ever took place. It was a lot of talk, right?

1 A Pretty much.

2 Q Because you never had to look the other way when somebody
3 beat up Mr. Anderson, right?

4 A Right.

5 Q But in spite of never ever having to do that, you still
6 collected substantial money from Mr. Kienstra, right?

7 A Right.

8 Q And you continued to collect money from Mr. Kienstra for
9 how long?

10 A A couple of years.

11 Q How much money do you think you collected from
12 Mr. Kienstra all told?

13 A I don't really -- I really -- I really don't know.

14 Q Well, if you said you were getting approximately \$900 or
15 so a month to the FBI, would it be fair to say that that was
16 about \$900 a month times 24 months?

17 A I didn't get money ever month, though. That's the thing.

18 Q So for a couple of years you received monthly money from
19 Mr. Kienstra, right?

20 A Not quite, no. I can't agree to that because
21 Mr. Kienstra really don't pay the -- pay his bills like he
22 should. He says a lot of things he's going to do and don't do
23 them.

24 Q So he -- You were -- He was supposed to pay you for two
25 years but he didn't make good on it sometimes, right?

1 A Pretty much, yeah.

2 Q Okay. But you were still looking to get the money,
3 right?

4 A Of course.

5 Q And, of course, Mr. Kienstra then wasn't terribly upset
6 with you for this punch through the shake because he wound up
7 paying you, right?

8 A Right. I mean I -- I don't know. I don't know his
9 feelings. I just know that he hired me.

10 Q And at any time during your employment with Mr. Kienstra
11 and the opportunity you seized on there, did you ever have to
12 do anything to Mr. Anderson?

13 A No, sir.

14 Q Did you ever have to present -- prevent any violence --

15 A No, sir.

16 Q -- coming to Mr. Anderson? Pardon me?

17 A No, sir.

18 Q Essentially you just hung out with Mr. Kienstra from time
19 to time and got paid.

20 A Well, no, sir. No, sir.

21 Q So you got paid for doing nothing?

22 A Who are you asking me about? Mr. Kienstra or
23 Mr. Anderson?

24 Q Mr. Anderson -- Mr. Kienstra.

25 A Okay. What is your question?

1 Q Well, if you didn't hang out with him and he was paying
2 you from time to time to prevent -- to -- to ---

3 A He would give me money sometimes and like -- like an
4 advance on the job or an advance on doing something, like
5 that. Like just because he didn't have nothing going on, he
6 would still throw me some money. But, you know, he was always
7 trying to get me to help him trap Mr. Anderson which I would
8 never do because I'm never -- I wasn't -- I wasn't going to
9 never set him up doing like that. You know what I'm saying?
10 It never was my intention. You know what I'm saying?

11 But I was going to keep getting the money. You know
12 what I'm saying?

13 I never would have let nothing happen to
14 Mr. Anderson, but at that time he was ---

15 Q So your intention was to sort of play Mr. Kienstra sort
16 of to rip him off.

17 A You can put it like that.

18 Q Okay. And incidentally, at the -- going back to San Jose
19 when you claim that Mr. Kienstra was on the ground saying,
20 "Don't kill me," and Mr. Anderson said, "That's exactly what's
21 going to happen," I mean that was never in the cards. Nobody
22 was going to get hurt, seriously hurt, on that day, right?

23 A As I told you before, Mr. Anderson stated that he didn't
24 want the guy hurt that bad. He just wanted him punched a
25 couple of times, roughed up to get his attention.

1 Q Now ---

2 A Those were my instructions.

3 Q So after seizing upon the opportunity -- And,
4 incidentally, Mr. Kienstra couldn't have been too upset with
5 you because he started paying you for two years, right?

6 A Again, sir, for the third time, yes, sir.

7 Q And lastly, after seizing upon the opportunity from
8 Mr. Kienstra, then you went ahead and not only -- and seized
9 on the opportunity from the FBI and you went on their payroll,
10 right?

11 A Yes, sir.

12 Q And what do you think the requirements -- your
13 requirements to stay on the FBI payroll are?

14 A I don't know the requirements. I haven't been told no
15 requirements and ---

16 Q Are you continued -- Are you being paid by them as we
17 speak?

18 A I haven't got no more money. I stated the first time
19 when I got the first money. That's all I got.

20 Q A thousand dollars?

21 A Yes, sir.

22 Q And you got it at one time.

23 A Yes, sir.

24 Q And when did you get it?

25 A Again, sir, ---

1 Q When did you get it?

2 A This morning.

3 Q So you got a thousand dollars -- Wait a second. So you
4 met with the FBI on the 14th of 2014. You met with the FBI on
5 February 21st of 2014. You stated you met with them to
6 provide information to them about Mr. Anderson and others
7 involved in this investigation, I think you said, 20 times or
8 so? Is that fair?

9 A No, sir. You're very much mistaken. I never said no
10 twenty times. I said in between five and ten.

11 Q You said in between five and ten?

12 A Times that I -- that the FBI met with me.

13 Q Okay. And when was ---

14 A Or are you talking about working for Mr. Anderson?

15 Q No. That's fine.

16 A Because I'm confused.

17 Q And when was the last time -- Okay.

18 THE WITNESS: Your Honor, I'm very confused right
19 now.

20 Q (By Mr. Rosenblum) Let me ask this question. I'll
21 accept your answer that you met with the FBI five to ten times
22 after those initial meetings. When was the last time you met
23 with the FBI?

24 A 2:30.

25 Q I'm sorry?

1 A 2:30.

2 Q 2:30 this afternoon?

3 A PM.

4 Q And that's ---

5 A Today.

6 Q And prior to 2:30 this afternoon, when was the last time
7 you met with the FBI?

8 A This morning.

9 Q And prior to this morning, when was the last time?

10 MR. DAVIS: Your Honor, I'm going to object to the
11 relevance.

12 MR. ROSENBLUM: Well, I'm trying to get to see when
13 he was done working and when he got paid.

14 MR. DAVIS: He got paid this morning a thousand
15 dollars, paid this morning, and he's met with the FBI five to
16 ten times.

17 MR. ROSENBLUM: Well, Mr. Davis isn't on the stand,
18 and I'm asking his witness, and I'm trying to ascertain when
19 his duties were done as opposed to when he got paid just
20 before he testified.

21 THE COURT: Okay. Why don't you ask him when --
22 whether his duties have ended with the FBI so we can move on.

23 Q (By Mr. Rosenblum) When did you think your duties with
24 the FBI ended?

25 A I don't know. I haven't discussed that.

1 Q You haven't discussed it?

2 A No.

3 Q So you think you're still on the clock with the FBI as a
4 paid informant?

5 A I mean it has no relevance to me. I don't know whether
6 we're on or off. I don't know.

7 Q But the one thing -- the one thing we can be certain of
8 is before you came here and testified, you received a thousand
9 dollars from your Government, right?

10 MR. DAVIS: Asked and answered.

11 A That's what we can be certain of.

12 MR. ROSENBLUM: All right. I have nothing further.

13 REDIRECT EXAMINATION

14 QUESTIONS BY MR. DAVIS:

15 Q You recited to Mr. Rosenblum your previous convictions to
16 the best of your memory.

17 A Yes, sir.

18 Q Did Thomas Anderson, who asked you to go to California
19 and do that dirty work, know about your previous convictions?

20 A Yes, sir.

21 Q Did he know about that when he asked you to be his
22 bodyguard and accompany him to clubs around town?

23 A Yes, sir.

24 Q When you assaulted the man in the hotel room,
25 Mr. Rosenblum asked you: You weren't there to kill anybody,

1 and that's true, correct?

2 A Correct.

3 Q Did you say anything to the man laying on the floor about
4 dying?

5 A Did I personally?

6 Q Yes.

7 A No, sir.

8 Q Who did?

9 A Thomas Anderson.

10 Q There's talk about a \$90,000 debt that might have been
11 owed from Kienstra to Anderson or Anderson to Kienstra.

12 There's talk about \$270,000-ish in that briefcase. He's
13 paying you hundreds of dollars to be his bodyguard; 5000 to
14 fly to California. How was Mr. Anderson employed?

15 A Excuse me. How was what?

16 Q What did he do for his money?

17 A Nothing.

18 Q And Mr. Rosenblum made it a point that at the clubs, you
19 walked ladies to cars to make sure they were safe. That was
20 part of your employment?

21 A No, sir, that wasn't part of my employment. That's part
22 of my courtesy as a gentleman.

23 Q Okay. But the difference between Mr. Anderson was he
24 paid you. It wasn't just courtesy.

25 A That's what I said, yes, sir.

1 Q And your exact words were "among other things."

2 A Yes, sir.

3 Q Do those other things include going to California to beat
4 up someone?

5 A Yes, sir.

6 MR. DAVIS: I don't have anything further.

7 THE COURT: Thank you, Mr. Hughes. You are excused.

8 THE WITNESS: Okay.

9 THE COURT: Oh, wait. Actually I have a question. I
10 don't think I heard. When was this trip to California? What
11 year?

12 THE WITNESS: I want to say either 2010 or '11. I'm
13 not for sure. I don't really recall; to my best knowledge.

14 THE COURT: I'm sure somebody will give it to me.

15 MR. DAVIS: Your Honor, under 612, I move for the
16 admission of the document (inaudible).

17 MR. ROSENBLUM: I have no objection.

18 THE COURT: It will be admitted.

19 MR. DAVIS: That will be Government's Exhibit 3.

20 THE COURT: Exhibit 3? Okay. Well, you entered 1 at
21 the first ---

22 MR. DAVIS: I entered 1. So 2's already marked for
23 (inaudible). So that's 3.

24 THE COURT: Okay. This will be admitted as
25 Government's Exhibit 3.

1 Thank you, Mr. Hughes. You may step down. You are
2 excused.

3 MR. DAVIS: Corey Nuspl.

4 THE COURT: Mr. Davis, it's 5:00. How much time do
5 you think this witness is going to take?

6 MR. DAVIS: 5:00 we're at? Less than the Direct on
7 Mr. Hughes.

8 THE COURT: Okay.

9 (The Witness Is Sworn.)

10 DIRECT EXAMINATION

11 QUESTIONS BY MR. DAVIS:

12 Q Mr. Nuspl, it's 5:00 on a Friday afternoon. If I am
13 talking fast and you don't understand what I say, please feel
14 free to stop me and reask the question. Okay?

15 A Yes, sir.

16 Q You are indicted with Tommy Anderson in the -- You're
17 aware that you're under indictment with Tommy Anderson. Is
18 that true?

19 A Yes, sir.

20 Q You've agreed through your counsel, Joel Schwartz and
21 currently Patrick Kilgore, to cooperate with the Government in
22 that -- in that prosecution. Is that correct?

23 A Yes, sir.

24 Q To that end, you and I, with counsel, have had
25 multiple -- a few conversations where it has been explained to

1 you that if you provide substantial assistance to the
2 Government, the Government will file a motion later on that
3 would allow the sentencing judge to give you a lesser sentence
4 than you might otherwise receive. Is that your understanding?

5 A Yes, sir.

6 Q Has anyone predicted to you what that sentence is going
7 to be?

8 A No, sir.

9 Q In fact, what have I told you?

10 A There is no prediction.

11 Q Do you know Thomas Anderson?

12 A Yes, sir.

13 Q When do you remember meeting him?

14 A Late 2010.

15 Q When you met him, how long was it, if ever, that you
16 realized he was involved in a drug conspiracy?

17 A Almost immediately.

18 Q Did you become involved in it as well?

19 A Yes, sir.

20 Q I want to fast-forward to a portion where you and
21 Thomas Anderson had a conversation about a trip to San Jose,
22 California with two African-American gentlemen. Do you ever
23 recall Tommy Anderson relating such a story to you?

24 A Yes, sir, I do.

25 Q Do you recall where you were?

1 A It was in my truck on the way to the gym.

2 Q To the gym to work out?

3 A Yeah.

4 Q Did you do that with Mr. Anderson on occasion?

5 A Yes, a lot.

6 Q What did Mr. Anderson tell you happened in California?

7 A What Tommy told me -- Mr. Anderson told me was that they

8 had someone tell them that a guy named Kyle Kienstra was out

9 in California, wherever, and that he had money to purchase

10 marijuana. And ---

11 Q Did you know a man named "Kyle Kienstra" at that point?

12 A I know of him through Tommy.

13 Q Okay. Were you -- Did you ever know Mr. Anderson and

14 Mr. Kienstra to jointly be involved in this drug conspiracy?

15 A I was under the impression they were.

16 Q Okay. Okay. Going back now, he tells you that he had

17 heard information that Kienstra was in California to make a

18 drug purchase. What else did he say?

19 A He said that someone told him he was out there with money

20 to make a purchase and that they were -- they went out there

21 to rob him.

22 Q Who's "they"?

23 A Him and a guy named "Big" and his brother, "Conflict."

24 Q Did you -- When he told you -- When Tommy Anderson told

25 you this story, did you know "Big" and/or "Conflict"?

1 A When he told me the story, no, but I met them shortly
2 after.

3 Q Okay. What did he say happened when they got to
4 California? "They" meaning he, Big and Conflict.

5 A He said that they had word he was in a hotel room, and I
6 guess they went up, knocked on the door, whatever have you,
7 and they walked in. And Tommy's side of the story was that
8 they walked in, duct taped him in some fashion, and hung him
9 over a railing, and he was drooling on himself. And they
10 asked him where the money was supposedly, and they got the
11 money and left was his story.

12 Q In addition to -- Tommy Anderson, that's his relation of
13 what happened in California?

14 A Yes.

15 Q Okay. Have you ever seen Tommy Anderson with a gun?

16 A Yes.

17 Q Have you ever seen it in his waistband?

18 A Yes.

19 Q How many times have you seen him with a firearm?

20 A Just twice.

21 Q Okay. Have you ever seen -- When I say "firearm," I mean
22 handgun. Okay?

23 A Okay.

24 Q Twice with a handgun?

25 A Just once with a handgun.

1 Q Okay. What was the other weapon?

2 A The other weapon was an assault rifle, and that was at
3 his apartment.

4 Q Where was his apartment?

5 A In Clayton.

6 Q At the time that you saw him with the handgun in his
7 waistband and the assault rifle at his apartment, were you
8 aware that he was involved in a drug conspiracy?

9 A Yes, sir.

10 Q Were you, in fact, involved in the same conspiracy?

11 A Yes, sir.

12 Q When you agreed to cooperate with the Government, did you
13 express concerns to me about your safety?

14 A Yes, sir.

15 Q Against whom?

16 A From Mr. Anderson and his associates.

17 Q I'm sorry. What did you say?

18 A Mr. Anderson and anyone he's associated with.

19 Q Can you explain to the Court why you had or have that
20 concern?

21 A Just out of his personality and vengefulness.

22 MR. DAVIS: Nothing further.

23 CROSS EXAMINATION

24 QUESTIONS BY MR. ROSENBLUM:

25 Q Mr. Anderson's, never threatened you, has he?

1 A Yes, actually he has.

2 Q When?

3 A Through another person. He said to tell Corey he's
4 coming for me.

5 THE COURT: Could you keep your voice up, Mr. Nuspl,
6 please?

7 THE WITNESS: Yes, ma'am.

8 Q (By Mr. Rosenblum) I mean you would agree with me that
9 anybody -- that when you decided to cooperate, there's always
10 a general concern about being hurt, right?

11 A Yes.

12 Q And you have a general concern because you've decided to
13 cooperate with the Government, correct?

14 A Yes, and knowing Tommy.

15 Q Okay. And when you say, "knowing Tommy," has he ever
16 done any harm to you?

17 A No, sir.

18 Q Has he ever -- Now you said that you saw him one previous
19 occasion with a weapon?

20 A Yes, sir.

21 Q And when was that?

22 A It was ---

23 Q With a handgun?

24 A Yes, sir.

25 Q When was that?

1 A In 2011.

2 Q So you saw him in 2011 with a handgun, and this is when
3 you were ---

4 A I -- I picked him up to go to the gym.

5 Q Okay. And did he carry the handgun into the gym?

6 A He had it in his waistband. And then when we pulled up
7 to the gym, he pulled it out of his waistband is when I seen
8 it, and he put it in a bag, his gym bag.

9 Q And he put the -- he put -- You're telling the Court that
10 he put the weapon in his gym bag?

11 A Yes.

12 Q Did you ever see him use that weapon on anybody?

13 A No, sir.

14 Q Did you ever see him threaten anybody with that weapon?

15 A No, sir.

16 Q And at the time were you aware that Mr. Anderson was not
17 a prohibited person? That he didn't have a -- he wasn't a
18 convicted felon?

19 A I did not know.

20 Q And when you said that he -- Can you give us a month in
21 2011?

22 A I'd say towards the end of 2011.

23 Q Okay. Did you spend a lot of time with Mr. Anderson?

24 A We'd work out, and I seen him socially a couple of times.

25 Q And was that the only time you saw a handgun next to him?

1 A That was the only time I seen him with a handgun.

2 Q Okay. And that was a handgun that he kept potentially in
3 his vehicle, correct?

4 A Kept on him, I would say.

5 Q And -- On that occasion.

6 A Yes, sir.

7 Q Well, on all the other occasions that you were with
8 Mr. Anderson, did you see a weapon on his person?

9 A No, sir.

10 Q And you said that you then -- On another occasion you saw
11 a rifle in his apartment?

12 A Yes, sir.

13 Q And incidentally, with respect to the handgun, you're not
14 telling the Court that he was involved in a specific drug
15 transaction that day at the gym, are you?

16 A No, sir.

17 Q So there was no -- And he wasn't around narcotics on that
18 particular day at the gym, was he?

19 A No, sir.

20 Q Or any large sums of money, correct?

21 A No, sir.

22 Q So it was just the two of you going to work out, right?

23 A Yes.

24 Q And you're telling the Court that on that particular
25 occasion, unrelated to any -- quote/unquote -- "conspiracy,"

1 there was no specific drug transaction at that time.

2 A Not at that time.

3 Q And you're not claiming that he needed it for protection
4 from a drug transaction at that time.

5 A I would safely say that's probably the case.

6 Q Pardon me?

7 A I would safely say he probably was carrying it for his
8 protection.

9 Q Now with respect to the weapon that you saw in his
10 apartment, was that also in 2011?

11 A Yes, sir.

12 Q And that was just -- Were there -- When you saw that
13 particular weapon, was there a drug transaction in process at
14 that time?

15 A No, sir.

16 Q You're not saying that to the Court. Were there any
17 drugs around at that time?

18 A No, sir.

19 Q Were there any large sums of money at that time?

20 A Not that I know of.

21 Q So it was a weapon that he had in his home.

22 A In his house under his bed.

23 Q Did he ever threaten you with the weapon?

24 A No, sir.

25 Q Now when was the last time you've been in contact with

1 Mr. Anderson? Direct contact.

2 A Direct contact? I haven't seen him in probably over --
3 over a year.

4 Q Over a year?

5 A Yes.

6 Q Have you spoke with him in over a year?

7 A No. About a year I'd say since the last time I spoke to
8 him.

9 Q And was that over the phone or in person?

10 A Over the phone.

11 Q And is that when you're telling the Court that he said
12 something threatening to you?

13 A No.

14 Q So he's never threatened you personally, has he?

15 A He threatened recently in the past couple of months. He
16 was at Ballpark Village and told a friend of mine that works
17 there's that, "Tell Corey I'm -- I'm coming for him."

18 Q Assuming your friend's telling the truth, right?

19 A Yes, sir.

20 Q So my question again is: Has Tommy Anderson ever
21 threatened you?

22 MR. DAVIS: Asked and answered.

23 Q (By Mr. Rosenblum) Directly. Directly --

24 A No, sir.

25 Q -- has he ever threatened you? Pardon me?

1 A No, sir.

2 Q Okay. And this incident some three months ago at
3 Ballpark Village came, what, "I'm coming for you"?

4 A Yes.

5 Q Did you go to the police?

6 A No, sir.

7 Q Were you cooperating with the Government at that time?

8 A No, sir.

9 Q Did you feel you needed to make any kind of report for
10 your safety at that time?

11 A No, sir.

12 MR. ROSENBLUM: I have nothing further.

13 MR. DAVIS: Nor do I. Thank you.

14 THE COURT: You're excused, Mr. Nuspl.

15 THE WITNESS: Thank you.

16 THE COURT: Any more?

17 MR. DAVIS: If it please the Court, and if
18 Mr. Rosenblum will stop me if I stray from what our previous
19 conversation was, I was going to call Agent Jenny with whom
20 the Court is familiar from two days ago concerning what could
21 be some voluminous testimony but a copy of which has been
22 provided to Mr. Rosenblum. This is Exhibit No. 2 that I spoke
23 of earlier --

24 THE COURT: Okay.

25 MR. DAVIS: -- that I'll provide to the Court, if

1 counsel has no objection. And counsel will allow me to
2 summarize what it is.

3 THE COURT: Any objection, Mr. Rosenblum?

4 MR. ROSENBLUM: No, Your Honor.

5 THE COURT: Okay.

6 MR. DAVIS: And, again, if I stray from that
7 stipulation, I invite the Court or counsel to stop me.

8 Your Honor, on November 13th of 2012, Government's
9 Exhibit No. 2, which is 50 pages long, that the Government
10 moves into admission before I forget, in Cause No.
11 4:12-MJ-1288 and 1289, Brandon Moles, the Case Agent on this
12 case, was sworn before Judge Adelman for two search warrants;
13 one at 4749 East Concord which is the residence of Mr. and
14 Mrs. Anderson; that's Tom Anderson, Sr., the mother and father
15 of the Defendant, as well as a search warrant for 67
16 Blackthorn Drive in St. Louis which is the residence of
17 Rachel Anderson and her boyfriend/fiance' who also lives there
18 and co-defendant Brian Hounsom.

19 The affidavit that was sworn to by the affiant
20 contains in it a relatively concise summary of wiretap calls
21 that were obtained from wiretaps on Mr. Anderson's phone and
22 Brian Lord's phone; Brian Lord being a third co-defendant in
23 this multi-defendant case.

24 Had Agent Jenny testified, I would have called -- and
25 the Court has tabs on its copy -- Paragraph 48 which is on

1 Page 14 wherein the affidavit to which Mister -- Agent Moles
2 was sworn is a summary of Call 14187 on August 15th of 2012 at
3 about 3:48 in the afternoon. It is from Target Phone 1 used
4 by Brian Lord to Mr. Anderson.

5 During that conversation, Anderson states: Anything
6 else been going on? Anything like you hear about the heater
7 squad?

8 And Lord replies: Yeah, absolutely.

9 Anderson: What do you hear about them?

10 Lord: Well, I mean I talked to ya.

11 Anderson asked: Am I laughing at them or they
12 laughing at me?

13 Lord said: You're going to get amped, about as amped
14 as I am.

15 And Anderson said: Are they talking shit?

16 And Lord said: Yeah. I mean just call me. Have you
17 talked to your parents in a while?

18 And Anderson replied: Yeah, I did. I talked to them
19 today. Why?

20 And Lord says: I mean there's just different things,
21 shit, you know.

22 And Anderson said: Why? Somebody called them or
23 something?

24 And Anderson responds: Just hanging out there and
25 shit.

1 Anderson said: Really? Okay. Here, I'm going to
2 call you right now.

3 And Lord advised: I got to go to the office.

4 And Anderson asked: Like the bad boys?

5 And Lord says: No. Like the fucking haters; like
6 fucking old man pimple face and shit.

7 And Anderson says: What do you mean old man pimple
8 face?

9 THE COURT: Mr. Davis?

10 MR. DAVIS: Yes.

11 THE COURT: What do you want me to do with this? I
12 mean I can -- I can read it, but if you can maybe explain what
13 the tabs are for, I can always read it later and not keep
14 everybody here, especially if there's no objection to entering
15 this. Maybe you can just explain it.

16 MR. DAVIS: If there's no objection to entering this,
17 on the tabs you have which are Paragraphs 48, 51, 75, 91, 94,
18 96 and 99.

19 MR. ROSENBLUM: Can you go through those again?
20 Paragraphs what?

21 MR. DAVIS: 48, --

22 MR. ROSENBLUM: Yeah.

23 MR. DAVIS: -- 51.

24 MR. ROSENBLUM: 51?

25 THE COURT: 51.

1 MR. DAVIS: 51. 75, Page 23; 91, Page 27; 94, Page
2 28; 96, Page 29; and 99 -- Paragraph 99, Page 30.

3 THE COURT: And those are being offered for what
4 purpose?

5 MR. DAVIS: If the Court reads the affidavit, it will
6 see that there is conversation, including that between
7 Mrs. Anderson herself and Mr. Anderson, the context of
8 which -- It's hard to explain without reading the nuts and
9 bolts of it. He has asked Brian -- He has asked Brian Hounsom
10 to go -- to wire him \$2000 because he is in LA and doesn't
11 have the money. Weeks before that, Brian Lord had been taking
12 off at Lambert Airport with \$35,000 in his suitcase, and the
13 presumption is that's why he didn't take the money with him to
14 LA because he knew he could be taken off by DEA at the
15 airport. He asked it to be wired later. The conversation
16 changes to make it \$5000 to Brian Hounsom; "keep 500 for
17 yourself for doing it."

18 The evidence reflected in here from surveillance and
19 from the T-III calls is that Brian Hounsom then went to
20 Mr. and Mrs. Anderson's house on Concord to get the money. In
21 fact, there's phone calls from Mr. Anderson saying: Are they
22 still there?

23 And Mrs. Anderson says: No. They left already.

24 And he said: I wanted to make sure who got in my
25 closet.

1 And she said: What do you -- Mrs. Anderson: What do
2 you think? We're stupid? We know where your clothes are.

3 Mr. Anderson, Jr. says: Good, because when Brian
4 gets in there, my clothes shrink. They always come back
5 shrunk.

6 Mrs. Anderson replies: I'll make sure they're washed
7 in cold water and there will be no shrinkage. We're all good.

8 Later on, there's conversation by Mrs. Anderson that
9 she has acquired silver, and apparently through the
10 conversation she is giving it to other co-conspirators as
11 payment for what is going on and whether or not that silver
12 can be cashed, and she expressed concerns that it's heating
13 up, and so she's backing off from her acquiring of silver.

14 There's also conversation in there about
15 Mr. Anderson's knowledge of money being counted in the house
16 and money being hidden in the house. This is the same house,
17 Your Honor, where the money was found in the bathtub.

18 This is the home plan the defense counsel proffered.
19 In fact, Mr. and Mrs. Anderson are now targets of this
20 investigation, and the home plan simply isn't viable.

21 So with that, I'd move for the admission of 2.

22 THE COURT: It's admitted.

23 Mr. Rosenblum, do you have anything you'd like to
24 proffer to the Court before I close the record?

25 MR. ROSENBLUM: Can I have one moment?

1 THE COURT: Oh, sure.

2 (Pause)

3 MR. ROSENBLUM: Clearly, Mr. Davis is more adroit of
4 dissecting what all those words meant than I am other than
5 I've heard a lot about pimple face and things of that nature.

6 But to the extent that his parents are targets, at
7 this point they're not indicted. And at this point -- And I'm
8 here representing Tommy. I can proffer to the -- I can
9 proffer that they have both, his father who's retired, own a
10 home that's worth \$200,000. They owe 25,000 on it. They have
11 owned that home for 30 years, longer than Tommy Anderson has
12 been alive. So I would -- It would be hard pressed to suggest
13 that that home was purchased with the proceeds of any crime.

14 Mr. Anderson, Tom Anderson, Sr., is retired and is at
15 home every day. They have already taken the opportunity to
16 install a separate phone line for any monitoring device that
17 would be needed, and so I think that's a valid home plan.

18 If the Court's not comfortable with that home plan
19 because of what Mr. Davis has just proffered, a -- we have a
20 substitute home plan which would be his mother's sister,
21 Debbie Hammond who's a 54-year-old woman that works for
22 American Orthodontists. She owns a home on Meadowfield off
23 Tesson Ferry Road. I could supply the Court with the exact
24 address. She lives there with her fiance'.

25 Meadowfield is within walking distance of an entity

1 called "Exist Fitness" which Tommy Anderson has an opportunity
2 to work at that location, if admitted to bail by the Court,
3 and he could essentially live in that home, monitored by
4 electronic -- by a separate phone line. He can be on an
5 electronic monitoring. He can be bound to that home other
6 than working, if the Court would permit him to work. And I
7 believe that should assuage any of the Court's concerns with
8 respect to the second prong which is any risk that
9 Mr. Anderson proposes or poses to the community.

10 That's in addition to securing the only asset that
11 his parents have which is their home of 30 years.

12 THE COURT: Thank you. I am going to -- I said thank
13 you. I'm going to take the motion under submission. I'll
14 issue an order the very early part of next week. I'm going to
15 issue an order the very early part of next week.

16 MR. DAVIS: Thank you, Judge.

17 THE COURT: All right. Thank you, all.

18 (Hearing adjourned at 5:22 PM.)

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CERTIFICATE OF OFFICIAL REPORTER

I, Deborah A. Kriegshauser, Federal Official Realtime Court Reporter, in and for the United States District Court for the Eastern District of Missouri, do hereby certify that pursuant to Section 753, Title 28, United States Code, that the foregoing is a true and correct transcript of the stenographically-reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Dated this 15th day of September, 2014.

/s/ Deborah A. Kriegshauser

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